

03.01.2024

Serial no. 62
Anticipatory bail
[Rejected]
Dd

CRM (A) 4366 of 2023

*In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Jiyaganj** Police Station Case No. **101** dated **April 17, 2023** under Sections **341/326/307/34** of the Indian Penal Code, 1860.*
(G.R. Case No. 1145/2023)

-And-

In the matter of : **Prakash Biswas & Anr.**
... ..**Petitioners**

Mr. Nabanil De,
Mr. Subhrajit Dey, Advocates
... .. For the Petitioners

Mr. S. S. Imam,
Mr. S. Kundu, Advocate
... ..For the State

Petition is taken up for consideration subsequent to order dated October 16, 2023.

By such order, interim anticipatory bail was granted by the co-ordinate Bench.

It is submitted at the Bar that the co-ordinate Bench did not consider the materials in the case diary and passed such order in view of the ensuing Puja vacation.

We perused the materials in the case diary.

Learned advocate for the petitioners submits that three co-accuseds were granted bail by the High Court. One co-accused was enlarged on anticipatory bail. Petitioners stand on the same footing as the person who was granted anticipatory bail by the co-ordinate Bench.

Learned advocate for the State refers to the materials in the case diary including the statement of the injured recorded under Section 161 of the Criminal Procedure Code.

The injured suffered grievous hurt. Injured recorded a statement under Section 161 of the Criminal Procedure Code where, she implicates both the petitioners before us in assaulting him by iron rod. He attributes a specific role to both the petitioners. He submits that the petitioners stand on the same footing as that of Suman Biswas who was granted bail by the co-ordinate Bench.

Petitioners before us stand on the same footing as that of Suman Biswas who was granted bail.

So far as the other co-accused who was granted anticipatory bail by the co-ordinate Bench are concerned, it was found that, she was a lady. Her extent of complicity in the crime was taken into consideration.

Applying the same standard of consideration to the petitioners before us, the complicity of the petitioners before us are graver than the co-accused who was enlarged on anticipatory bail. Both the petitioners assaulted the victim with iron rod leading to the victim suffering grievous hurt.

In such circumstances, we are unable to confirm the interim anticipatory bail granted on October 16, 2023 or grant anticipatory bail to the petitioners.

Prayer for anticipatory bail of the petitioners is **rejected**.

CRM (A) 4366 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)